

2 IN THE

OCTOBER TERM, 1925

No. 962

Joseph Mescall,
Petitioner-Appellant,

vs.

W. T. Grant Company, a Corporation,
Respondent-Appellee.

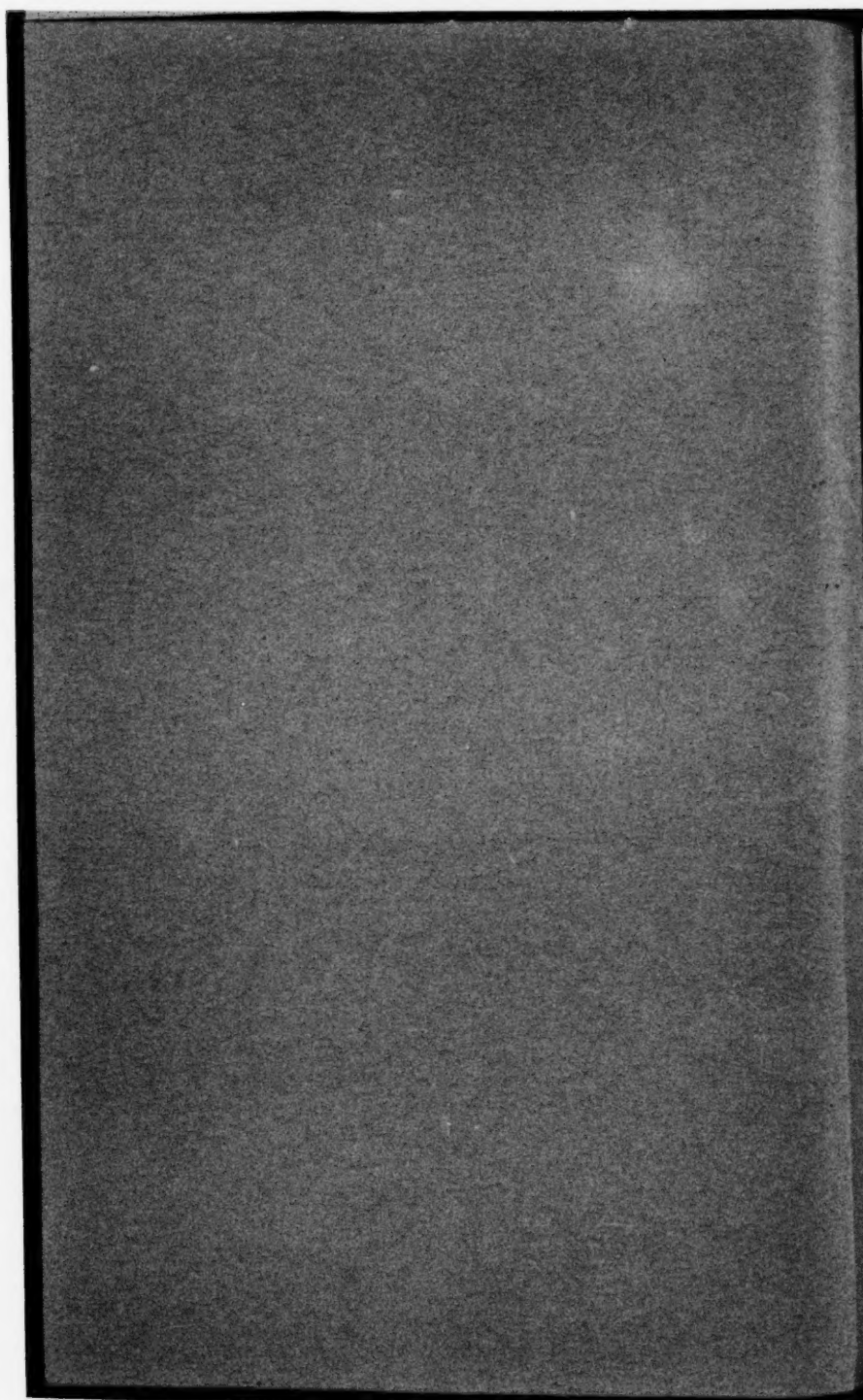
PETITION OF JOSEPH MESCALL FOR REHEARING
AND BRIEF IN SUPPORT
THEREOF

Clair E. Brown
11 N. Pennsylvania St.
Indianapolis, Indiana

Counsel

John Baldwin
11 N. Pennsylvania St.
Indianapolis, Indiana

Counsel



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OHIO STATUTES AND CONSTITUTION

Sections 13, 15 and 16 Ohio Industrial Act are the same as Section 871 - 13, 871 - 15, 871 - 16 respectively of Throckmorton's Ohio Code (Baldwin' 1936 Edition), Sections 13, 15, 16 of 103 Ohio Laws, pp. 98-100.

Section 13 Ohio Industrial Act
 Section 15 Ohio Industrial Act 6
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PETITION OF JOSEPH MESCALL
FOR REHEARING

To the Honorable Justices of the United
States Supreme Court:

Comes now Joseph Mescall, petitioner for writ of certiorari in the above entitled cause and presents this, his petition for a rehearing of his petition to this Court for writ of certiorari, which was denied May 24, 1943, and, in support hereof, respectfully shows:

I

The opinion of the Court below, the United States Circuit Court of Appeals for the Seventh Circuit, which is reported in 133 Fed. (2d) 209, failed to apply the local, applicable law for determining the duty of the appellee as an employer in Ohio, and applied principles of common or other law in conflict with the Ohio law.

II

The question, whether the Federal Courts shall follow applicable state law, is inherently important, and the importance is increased in scope by the fact that many other states have similar laws which would be nullified or rendered inapplicable by the rule applied in the opinion of said Circuit Court of Appeals.

WHEREFORE, upon the foregoing grounds it is respectfully urged that this petition for rehearing be granted and, for reasons herein and therein, petitioner's petition for writ of certiorari likewise.

I

The opinion of the court below, the United States District Court of Appeals for the Second Circuit, which is reported in 101 Fed. (2d) 807, failed to apply the local, applicable law for determination of the date of the acquisition as an exception to the rule, and applied principles of common law which are in conflict with this law.

II

The question whether the Federal courts shall apply applicable state law, is important, and the importance is increased by the fact that many state courts have either law which would be nullified or rendered inoperative by the rule applied in the question of this circuit court of appeals.

Further, upon the foregoing grounds it is respectfully urged that this position for uniformity be taken and, for reasons herein stated, the Supreme Court's position for rule of construction be followed.

Respectfully submitted,

Clair McTurnan
Counsel for Petitioner

Certificate of Counsel

I, counsel for the above named Joseph Mescall, do hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay.

Clair McTurnan